IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 13778 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BASIRALI HAJIBHAI BHIMANI & 4 - Applicant(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR H.S.MULIA for Applicant(s) : 1 - 5.
Mr. RC Kodekar, Addl. PUBLIC PROSECUTOR for Respondent(s) : 1,
MS. KRUTI M SHAH for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 13/07/2007
ORAL JUDGMENT

Rule. Ms. Kruti Shah, learned advocate appears on behalf of respondent, original-complainant and Shri RC Kodekar, learned APP appears on behalf of respondent State waive

service of Rule. Present application has been filed by the petitioner under Section 482 of Criminal Procedure Code to quash the complaint filed by the respondent No.2 against the petitioner being CR No.I-276 of 2006 registered with Vejalpur police station.

2. On going through the complaint, it appears that basically it was a matrimonial dispute. Learned counsel appearing on behalf of the respective parties have jointly submitted that the parties have amicably settled the dispute and the respondent No.2 does not want to proceed further with the complaint. Respondent No.2 is personally present in the Court along with her father and has also submitted that she has no objection if the complaint is quashed. Learned advocates appearing on behalf of the respective parties have relied upon the decision of the Hon'ble Supreme Court in the case of ***B.S. Joshi Vs. State of Haryana & Another,*** reported in ***2003(1) SCALE Page 214*** and have requested to exercise the powers under Section 482 of the

Criminal Procedure Code to quash the impugned complaint.

3. Considering the above, when there is a matrimonial dispute and the parties have settled the dispute amicably and the original-complainant has also appeared before this Court and has stated that she has no objection if the complaint is quashed, it appears to the Court that continuance of the criminal prosecution would not be in the interests of parties. Even otherwise, considering the stand taken by the respondent No.2 herein, original-complainant, there is no reasonable likelihood of the accused being convicted of the offence and there are bleak chances of conviction. In the peculiar facts and circumstances of the case, this is a fit case to exercise the powers under Section 482 of the Code of Criminal Procedure and to quash the complaint.

4. For the reasons stated above and in the facts and circumstances of the case the impugned complaint being C.R. No. I-276/2006 registered

with Vejalpur police station is hereby quashed and set aside. Rule is made absolute. Direct service is permitted.

[M.R. Shah, J.]

rmr.